

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

JULIAN SHAW,

Plaintiff,

v.

DECISION AND ORDER  
12-CV-0822A(F)

CAROLYN W. COLVIN,<sup>1</sup> Commissioner of  
Social Security,

Defendant.

---

The above-referenced case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(B). On March 6, 2015, Magistrate Judge Foschio filed a Report and Recommendation (Dkt. No. 14), recommending that the defendant's motion for judgment on the pleadings (Dkt. No. 10) should be denied. Magistrate Judge Foschio further recommended that the plaintiff's motion (Dkt. No. 11) should be denied as to judgment on the pleadings but should be granted as to the request for remand.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, the defendant's

---

<sup>1</sup> Carolyn W. Colvin became Acting Commissioner of the Social Security Administration on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J. Astrue as the defendant in this suit. No further action is required to continue this suit by reason of sentence one of 42 U.S.C. § 405(g).

motion for judgment on the pleadings is denied, the plaintiff's motion for judgment on the pleadings is denied, and the plaintiff's alternative request for remand is granted.

The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

*Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: April 9, 2015